

## Grutter v. Michigan

Questions for respondents - University of Michigan, et al.

### I. Strict Scrutiny

#### A. Compelling State Interest

1. University relies on diversity as compelling state interest, correct? What aspect of diversity? Moral education in racial tolerance? Promotion of post graduation diversity in legal profession? Experiential diversity - experiences that students from underrepresented groups will be able to share with their fellow students?

2. What is evidence that diversity actually produces educational benefits?

3. Do you agree that some harms come from this process? Should university have to prove that benefits substantially outweigh the harms?

4. Are there any limits to the use of race to achieve diversity? Can it go on forever? Groups to be included ? How it can be used?

5. Suppose the university were to drop Native Americans from the favored group? Constitutional?? African Americans??

6. If suitably divided, can not any group become a minority? Different sects of christianity?

7. The reason for this special treatment is not past discrimination by university, is it?

8. How do you respond to Judge Boggs' concerns in dissent?

When it comes to a choice between admitting a conventionally liberal (or conventionally conservative) black student who is the child of lawyer parents living in Grosse Pointe, just like the previous ten white admittees, the black student will be

given a diversity preference that would not be given to a white or Asian student, her unique experiences notwithstanding.

B. Narrowly tailored

1. Is not the following the magnitude of the law school's preference? Under-represented minorities with a high C to low B undergraduate average are admitted at the same rate as majority applicants with an A average with roughly the same lsat scores. To put it another way, minority applicants with an A average and an lsat score in 70<sup>th</sup> percentile are admitted at roughly the same rate as majority applicants with an A average and lsat score in 96<sup>th</sup> percentile?

2. This not just tipping the balance with respect to any particular applicant, is it? Race is worth over 1 full grade point of college average and 11 point and 20-percentile boost on lsat?

3. Not limited to individuals who demonstrate disadvantage of any kind? What is basis to assume that mere membership in one of groups will make it particularly likely that students will have experiences and perspectives of special importance to the law school's mission?

4. Is not the racial preference sufficiently heavy that 3 out of 4 under-represented minority students would not be admitted if all students were truly considered without regard to race?

5. Is not a critical mass functionally same as quota system that was condemned in Bakke?

6. What about race neutral alternatives? Experiential diversity in race neutral way? Seek out applicants who were raised amidst relative poverty, who attended under-funded schools, who walked to school past warehouses and not coffee houses, who experienced but conquered extreme emotional trauma, who prevailed over a profound childhood illness, etc. etc.

7. What about a lottery for all students above certain threshold figures for gpa and lsat?